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BY HAND

Honorable Denise Cote
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

July 25, 2008

NEVER ENDORSED

Re: Kathy Jones, et al. v. City of New York, et al., 08 CV 4512 (DLC)(MHD)

Dear Judge Cote:

I am the Assistant Corporation Counsel in the Office of Michael A. Cardozo, Corporation Counsel for the City of New York, assigned to the above-referenced case on behalf of defendants the City of New York, Commissioner Kelly and Detective Angus Mackenzie¹. I am writing with the consent of plaintiff's counsel, Michael P. Kushner, Esq, to respectfully request: (1) that the Court set a date certain by which plaintiffs must provide properly executed §160.50 and medical releases to defendants; (2) that the City be granted a thirty (30) day enlargement of time from the receipt of releases from plaintiffs to answer or otherwise respond to the complaint; and (3) for a corresponding adjournment of the initial conference, which is currently scheduled for August 8, 2008, at 9:00 a.m., to a later date convenient to the court after defendants have filed their answer. This is the City's second request for an enlargement of time and first request for an adjournment of the initial conference in this action.

The complaint alleges, inter alia, that plaintiffs' Kathy Jones, Donovan and Trenton Jones, by their mother and natural guardian Kathy Jones, were falsely arrested/imprisoned and subjected to excessive force and their home was unlawfully entered and searched. Before this

¹ On information and belief, the individual identified in the caption of the complaint as "P.O. Angus MacKenzie" was served with the summons and complaint in this action on or about June 2, 2008. However, to date, representational issues are still being resolved with respect to Detective MacKenzie. Although this office does not currently represent Detective MacKenzie, this office also respectfully requests this extension on his behalf in order to prevent his defenses from being jeopardized while representational issues are being resolved. Upon information and belief, individuals identified as Police Officers Shield Nos. 7204, 27111, 68222 and 21837 have not been served with a copy of the complaint in this action and are not, therefore, proper defendants.

office can adequately respond to the complaint, we will need to conduct an investigation into the facts of the case in accordance with this office's obligations under Rule 11 of the Federal Rules of Civil Procedure. The enlargement of time will afford us the opportunity to investigate the matter.

We are seeking a second adjournment in this matter because plaintiffs have failed to provide releases in this matter which would allow this office to investigate this case and properly answer the complaint. Shortly after the complaint was served on defendant City, on June 10, 2008, this office forwarded to plaintiff's counsel for execution releases for plaintiffs' medical record and consents to the designation of the Corporation Counsel as plaintiffs' agent for release of records sealed pursuant to New York Criminal Procedure Law §160.50. Pursuant to the statute, all official records concerning plaintiffs' arrests and prosecutions, including police records, are sealed. Defendants cannot obtain these records without the designations and the medical releases, and, without these records, defendants cannot properly assess this case or respond to the complaint. Because plaintiffs were provided with the necessary releases approximately six weeks ago and this office is still awaiting receipt of these releases from plaintiffs, we respectfully request that the Court set a date certain by which plaintiffs must provide properly executed §160.50 and medical releases and an enlargement of time, which will afford us the opportunity to investigate the matter.

In view of the foregoing, it is respectfully requested that the Court grant the within requests to: (1) set a court-ordered date for plaintiffs to provide releases; (2) extend the City's time to answer the complaint until thirty (30) days from the receipt of releases from plaintiffs, and (3) adjourn the initial conference, which is currently scheduled for August 8, 2008, at 9:00 p.m. to a later date convenient to the court. I have conferred with Mr. Kushner and have learned that he will be unavailable August 11, 2008 to August 26, 2008. Therefore, I ask that the conference be scheduled for a date after August 26, 2008.

Respectfully submitted,

Meghan Cavalieri

Meghan A. Cavalieri (MC 6758)
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cc:

VIA FACSIMILE

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The releases served on June 10 must be executed and served on the defendants' counsel by August 8, 2008, or the case may be dismissed for failure to prosecute. The answers are due September 12; the conference is adjourned to September 26 at 2:00 pm.

Yours truly
July 28, 2008